

Appl. No. 10/014,676
Response dated April 3, 2006
Reply to Office Action of January 3, 2006

Remarks/Arguments

Claims 1-21 are pending and stand rejected on varying grounds under § 103(a).

No claims have been amended. No claims have been canceled or added and no new matter has been added by any amendments.

In view of the comments below, Applicant respectfully requests that the Examiner reconsider the present application including claims 1-21 and withdraw the rejection of these claims.

Generally and as more specifically discussed below, the rejections of claim 1-8 and 16-20 are improper and should be withdrawn since they are based on Naghian et al. and this reference does not qualify as prior art under 102(e) or 103(a). The rejections of claims 9-15 have been traversed, since the cited references do not show all claimed features of these claims.

a) Claims 1 and 2 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Naghian et al (US Pat. No.6,879,574) in view of Gwon et al. (US Publication No. 2003/0016655A1).

Claim 1 is in independent form with claim 2 dependent thereon.

Naghian et al is a US Patent that issued on April 12, 2005 and was published on December 25, 2003. The present application was filed on December 11, 2001. Thus Naghian et al. is prior art if at all only if the reference qualifies as prior art under 102(e). Section 102(e) recognizes that (1) publications of applications by another under section 122(b) that are filed before the invention by applicant as well as (2) patents granted on an application for patent by

Appl. No. 10/014,676
Response dated April 3, 2006
Reply to Office Action of January 3, 2006

another filed in the US before the invention by the applicant may preclude granting a patent to applicant. In this instance the present application was filed on December 11, 2001 whereas Naghian et al was not filed until June 24, 2002 (6+ months later than the present application).

Therefore Naghian et al does not qualify as prior art under §102(e) or under §103(a) and thus at least in view of this reason, Naghian et al is not a proper reference to support a rejection of the present application under §103(a). Hence, Applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claims 1-2 under 35 U.S.C. 103(a) as being unpatentable over Naghian et al (US Pat. No.6,879,574) in view of Gwon et al. (US Publication No. 2003/0016655A1)..

b) Claims 3-8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Naghian et al (US Pat. No.6,879,574) in view of Gwon et al. (US Publication No. 2003/0016655A1) and further in view of Elliot (US Patent No. 6,456,599 B1).

As noted above Naghian applies as prior art if at all only under 102(e). From the analysis above Naghian et al is not a proper reference under 102(e) and thus Naghian et al is not a proper reference to support a 103(a) rejection of claims 3-8.

At least in view of this observation, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 3-8 under 35 U.S.C. 103(a) as being unpatentable over Naghian et al (US Pat. No.6,879,574) in view of Gwon et al. (US Publication No. 2003/0016655A1) and further in view of Elliot (US Patent No. 6,456,599 B1).

Appl. No. 10/014,676

Response dated April 3, 2006

Reply to Office Action of January 3, 2006

c) Claims 9-13 and 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gwon et al. (US Publication No. 2003/0016655A1) in view of McKenna et al. (US Publication No. 2002/0028690 A1).

Claim 9 is independent in form with claims 10-13 and 15 dependent thereon. Claim 9 defines a method of establishing a packet data route via a wide area network, e.g., cellular network and responsive to excess frame errors via the wide area network, switching over to an ad-hoc network coverage when an appropriate cell is available. E.g., when excess frame errors are detected and the unit is near a local coffee shop with ad-hoc coverage, the unit can switch over to the coffee shop ad-hoc system. Claim 9 specifically recites:

“A method of communicating in and around a localized wireless coverage area, comprising:

establishing a data packet route to a destination unit through wide area network coverage;

determining whether a predetermined number of network frame errors have been received subsequent to the establishing of a wide area communication route to a destination unit through a wide area network coverage mode of operation; and

switching over to ad hoc wireless network coverage to maintain the data packet route to the destination unit upon determining that the data packet route is being disrupted and upon entry into a defined neighborhood cell.”

Gwon discusses a third generation mobile access IP data network [0029] and more specifically an IMT-2000 cellular system [0016], [0036]. As Gwon notes (CDMA, W-CDMA) [0040 - 0041] and as is well known, third generation cellular systems use a single air interface (e.g., air interface between BTS 150 and mobile nodes 135, 140) and data is formed into IP data packets, which are delivered to the IP network via the air interface, specifically cellular traffic channel data frames. Gwon does not show or suggest a data packet route from one unit (mobile node

Appl. No. 10/014,676
Response dated April 3, 2006
Reply to Office Action of January 3, 2006

135) to a destination unit (correspondent node 140). Gwon does discuss handing off a mobile node from one agent to another where these agents may be accessed via different cellular base transmitter sites (BTS) 150 (see FIG. 4 for example). Gwon specifically discusses a cellular handoff from one BTS to another BTS that requires IP data packets to be address reconfigured and routed into the data network using care of address procedures as defined by Mobile IP and IETF RFC 2261 (see FIG. 2, 3 and corresponding discussions [0044-0051]). Gwon discusses a scheme whereby the handoffs can be predicted and thus any latency required for the handoff can allegedly be improved (see abstract for example).

Gwon does not show or suggest anything that remotely resembles an ad-hoc network or ah-hoc network coverage or any hand off from a wide area network or cellular network to any other network or any other ad-hoc network. The Examiner appears to consider the IP fixed core network of Gwon as the claimed wide area network and possibly a cellular BTS or BTS coverage as an ad hoc network or network coverage. This is clearly an improper construction of the reference and does not comport with the understanding of those of ordinary skill in the field.

Those of ordinary skill know that a BTS is part of a cellular system, e.g., the fixed transmitter that supports the cellular air interface with mobile units. Similarly those of ordinary skill know that ad hoc systems or coverage areas are those where links or connection are "opportunity" based rather than generally pervasive (thus ad hoc). Since the ad hoc systems are not generally available, these systems use different air interface standards and conventions. See the specification, for example, paragraph beginning at page 4, line 14 for further clarification.

Appl. No. 10/014,676
Response dated April 3, 2006
Reply to Office Action of January 3, 2006

Furthermore, even if the Examiner's construction is used, Gwon does not show a handoff from the IP core network 120 to a BTS 150 coverage area. The IP core network is used regardless of which BTS is used by a mobile node 135, 140.

Since Gwon does not show or suggest an ad hoc network or ad hoc network coverage, this reference clearly does not show switching over to ad hoc wireless network coverage ... as specifically claimed in claim 9 or switching back as in claim 10 or the communicating during ad hoc coverage as in claim 11, etc. The Examiner concedes that Gwon does not speak to frame errors in the context of deciding on a handoff but cited McKenna et al. for this concept. It appears that McKenna et al. does discuss such a concept, however McKenna et al. does not show or suggest handing off from wide area network coverage to ad hoc wireless network coverage as specifically recited by claim 9.

Thus, since Gwon and McKenna et al. whether taken alone or together, do not show or suggest all features (switching to ad hoc wireless network coverage ...) of claim 9, these references do not support a §103(a) rejection of claim 9 or, at least by virtue of dependency, dependent claims 10-13 and 15. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 9-13 and 15 under 35 U.S.C. 103(a) as being unpatentable over Gwon et al. (US Publication No. 2003/0016655A1) in view of McKenna et al. (US Publication No. 2002/0028690 A1).

d) Claim 14 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Gwon et al. (US Publication No. 2003/0016655A1) in view of McKenna et al. (US Publication No. 2002/0028690 A1) and further in view of Elliot (US Patent No. 6,456,599 B1).

Appl. No. 10/014,676
Response dated April 3, 2006
Reply to Office Action of January 3, 2006

Claim 14 is dependent on claim 9. Claim 9 appears to be allowable over this combination of references and thus claim 14, at least by virtue of dependency should likewise be deemed allowable. Applicant thus respectfully requests that the Examiner reconsider and withdraw the rejection of claim 14 under §103(a) based on this combination of references.

e) Claims 16-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Naghian et al (US Pat. No.6,879,574) in view of Bahl et al. (US Publication No. 2004/0223469 A1).

As noted above Naghian applies as prior art if at all only under 102(e). From the analysis above, Naghian et al is not a proper reference under 102(e) and thus Naghian et al is not a proper reference to support a 103(a) rejection.

At least in view of this observation, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 16-20 under 35 U.S.C. 103(a) as being unpatentable over Naghian et al (US Pat. No.6,879,574) in view of Bahl et al. (US Publication No. 2004/0223469 A1).

f) Claim 21 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Naghian et al (US Pat. No.6,879,574) in view of Bahl et al. (US Publication No. 2004/0223469 A1) and further in view of Elliot (US Patent No. 6,456,599 B1).

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Appl. No. 10/014,676
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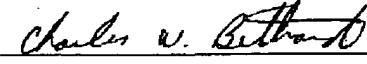
At least in view of this observation, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 21 under 35 U.S.C. 103(a) as being unpatentable over Naghian et al (US Pat. No. 6,879,574) in view of Bahl et al. (US Publication No. 2004/0223469 A1) and further in view of Elliot (US Patent No. 6,456,599 B1).

Accordingly, Applicant respectfully submits that the claims, as amended, clearly and patentably distinguish over the cited reference of record and as such are to be deemed allowable. Such allowance is hereby earnestly and respectfully solicited at an early date. If the Examiner has any suggestions or comments or questions, calls are welcomed at the phone number below.

Although it is not anticipated that any fees are due or payable since this response is being timely filed within the allotted three (3) time period and no other fees appear to be due or payable, the Commissioner is hereby authorized to charge any fees that may be required to Deposit Account No. **50-3435**.

This response is being filed in a representative capacity by Charles W. Bethards, Registration number 36,453, in accordance with the provisions of 37 CFR 1.34.

Respectfully submitted,



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